

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

S. Kay Christian,
Petitioner-Appellant.

v.

Boone County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-08-1084
Parcel No. 08-8226-32-42-00-001

Docket No. 11-08-1085
Parcel No. 08-8226-32-14-00-001

Docket No. 11-08-1086
Parcel No. 08-8226-32-41-00-001

On December 9, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant S. Kay Christian was self-represented. The Boone County Board of Review designated County Attorney Jim Robbins to represent it. Both parties participated at the hearing and submitted evidence in support of their position. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

S. Kay Christian, owner of property located in Woodward, Iowa, appeals from the Boone County Board of Review regarding the 2011 property assessments. The subject property includes three parcels of agricultural realty, a dwelling, and agricultural buildings. The total site consists of 90.99 acres, and 8.30 of those are in forest reserve. The real estate was classified as agricultural realty for the January 1, 2011, assessment. Docket No. 11-08-1084 (Docket 84) consists of 20.75 acres of agricultural land and was valued at \$26,223.¹ Docket No. 11-08-1085 (Docket 85) consists of 40.0 acres of agricultural land and was valued at \$41,829. Finally, Docket No. 11-08-1086 (Docket 86) had

¹ 8.30 acres are in forest reserve, which reduced the assessed value by \$3643 for an adjusted value of \$22,577.

a total assessment of \$199,532; it consists of 30.24 acres of agricultural land valued at \$46,778, a dwelling valued at \$114,080, and an agricultural structure valued at \$38,674. The dwelling's address is 1391 334th Road, Woodward, Iowa.

Christian protested to the Board of Review all available grounds under Iowa Code section 441.37(1)(a-e) including that there has been a downward trend in value under sections 441.37(1) and 441.35(3). The Board of Review provided partial relief and reduced the value of Docket 84 to \$19,674 and Docket 85 to \$36,810. It then raised the assessment of Docket 86 to \$204,398 according to the decision letter sent to Christian.

Christian appealed to this Board on the same grounds. Christian did not state the amount of relief requested. However, before the Board of Review, Christian requested a total combined assessment of \$247,802.

At hearing, the Board of Review and Christian stipulated that an agricultural hoop building would be valued at \$4850 and relocated from the Docket 86 parcel to the Docket 85 parcel. Additionally, the dwelling value on the Docket 86 parcel valued at \$123,951 would be reduced to \$121,520. The following chart shows the new assessments of those parcels as a result of the stipulation.

Docket No.	Previous Assessment	New Total Assessment
11-08-1085	\$36,810	\$41,660
11-08-1086	\$204,398	\$197,117

Although Christian protested on all grounds available, it became apparent at the hearing that the only remaining issue before this Board is whether the agricultural land is over assessed. The stipulation resolved Christian's exemption and error claims, which dealt with the location of the property line and the incorrect location of buildings. Christian's fraud claim was that, in her opinion, agricultural realty can only be increased by 4% in an assessment year. We note that the taxable value

of agricultural realty can only grow by 4% statewide; however individual parcels are not limited to a 4% increase in assessed value.

Christian testified she believed that since she questioned the Assessor about the 33% increase in his budget, he raised her assessment in retaliation. She also believes that her acreage was incorrectly adjusted. She stated that she went to the Board of Review hearing and was given only a few minutes to present her position. The Board of Review could not answer her questions and, therefore, tabled her protest. The Board of Review then un-tabled her petition, and the result was an increase for Docket 86.

Christian submitted dirt samples, soil maps, a deer shooting agreement, and a letter from the Assessor stating that perennial agriculture adjustments are made to CSRs. Christian is of the opinion that the correct adjustments are not being made to her non-tillable land. This Board notes the Board of Review reduced in part, the land value for all three parcels. The record does not reflect whether the CSRs were adjusted or if a flat dollar amount or percentage adjustment was made to arrive at the reductions.

Christian called Bob Grindstadt, an employee of the Boone County Assessor's office, as a witness. He testified it was the first year the county used CSRs and that he had no part in setting CSR values. Grindstadt said he reviewed the agricultural buildings with staff but did not value the agricultural land. He indicated that the \$150 per-acre adjustment for non-tillable land values was determined by the Assessor through his conversations with farmers. It appears this \$150 per-acre adjustment is a flat market value figure. But, the record is not clear. Grindstadt did testify that Christian's land goes down a ravine and is not tillable. We give Grindstadt's testimony no weight because he had limited knowledge of how the property was valued, particularly the \$150 per-acre adjustment that appears to have been made to the agricultural land.

It is clear that something is incorrect relating to the Board of Review and Assessor's records in these appeals. First, it appears possible that the increase in value for Docket 86 may be incorrect since the Board of Review decision mailed to Christian dated July 1, 2011, set the total values at \$204,398. The property record card that corresponds to the \$204,398 value is dated June 13, 2011. However, another property record card for Docket 86 dated June 16, 2011, values the property at \$199,532.

Also, the record reflects that Docket 84 included in the original assessment was an adjustment for 8.30 acres of forest reserve. However, it is not clear if this adjustment was included in the Board of Review's final adjustment. In the certified record is a forest exemption form for Docket 85 that includes 21.73 acres and for Docket 86 has 4.71 acres listed for forest exemption. It appears that it is possible these adjustments may not have been taken into consideration.

The final issue relates to the non-tillable land. It is unclear how the \$150 per-acre value for non-tillable land was developed and applied. And it is not clear how or if the Board of Review adjusted the values.

Ultimately, despite all of these irregularities, Christian failed to prove the property was over-assessed and presented no evidence to what the correct value of the property should be. Reviewing all the evidence we find several areas of concern that the Board of Review, and perhaps the Assessor, should reconsider for the next assessment cycle and to assure the forest reserve is correctly applied if, in fact, the properties qualify for the exemption. Therefore, we have no choice based on the evidence in the record to affirm the assessment for the agricultural land values for all three parcels.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). However, if property is classified agricultural property it is to be assessed and valued based on its productivity and net earning capacity. Iowa Code § 441.21(1)(e).

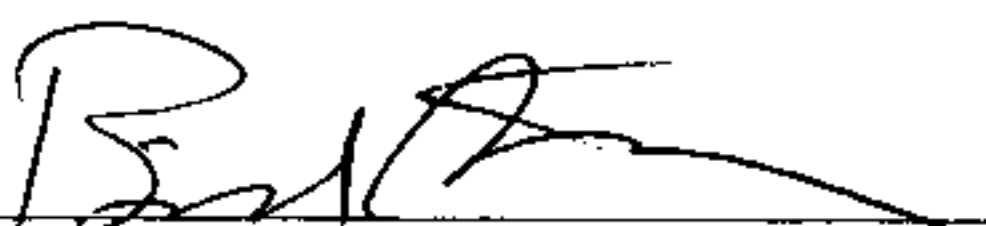
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In this case, while it appears there are irregularities in the record, Christian has failed to show that property is over assessed and what its correct value should be as agricultural realty.

THE APPEAL BOARD ORDERS the January 1, 2011, assessment of the S. Kay Christian property located in Woodward, Iowa, as determined by the Boone County Board of Review is modified as follows per the stipulation entered into by the parties at hearing.

Docket No.	Parcel No.	Land	Structure	Dwelling	Total
11-08-1084	08-8226-32-42-00-001	\$19,674			\$19,674
11-08-1085	08-8226-32-14-00-001	\$36,810	\$4850		\$41,660
11-08-1086	08-8226-32-41-00-001	\$40,229	\$35,368	\$121,520	\$197,117

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Boone County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 6 day March, 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-6</u> , 2012.	
By.	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	